

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

LARRY DONNELL DICKS-LEWIS III,

Plaintiff,

v.

Case No: 5:19-cv-499-Oc-30PRL

CIRCUIT COURT OF THE 5TH JUDICIAL
CIRCUIT, STATE OF FLORIDA, MARION
COUNTY SHERIFF'S OFFICE, JASON
LABORDE, MARION COUNTY JAIL,
LISA HERNDON and DAVID R.
ELLSPERMANN,

Defendants.

ORDER

THIS CAUSE came on for consideration upon the Report and Recommendation submitted by Magistrate Judge Philip R. Lammens (Dkt. 5). In the Report and Recommendation, the Magistrate Judge concluded that this action should be dismissed as frivolous under 28 U.S.C. § 1915(e)(2) because: (1) although Plaintiff lists a number of purported claims in the style of the case,¹ the Complaint only addresses claims under 42 U.S.C. § 1983 and alleges no facts in connection with the other claims; (2) Plaintiff's claims are barred by judicial immunity; (3) Plaintiff's claims against the Marion County Sheriff's Office, the Marion County Jail, and the Circuit Court of the Fifth Judicial Circuit are improper because these Defendants are not proper parties; (4) to the extent Plaintiff intends to proceed

¹ In the style of the case, Plaintiff also included FDCPA violations, violations of oaths of office, false arrest, cruel and unusual punishment, and fraud.

under § 1983 against the State of Florida, his claims would be barred by the Eleventh Amendment; and (5) Plaintiff has failed to allege sufficient facts to show that the remaining Defendants, Deputy Jason Laborde and David R. Ellspermann, personally participated in the alleged constitutional violations under § 1983.

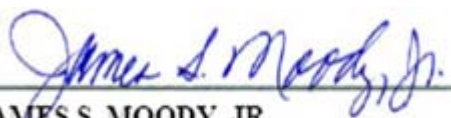
The Court notes that written objections to the Report and Recommendation have not been filed and the time for filing such objections has elapsed.

After careful consideration of the Report and Recommendation of the Magistrate Judge in conjunction with an independent examination of the file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

ACCORDINGLY, it is therefore, **ORDERED AND ADJUDGED**:

1. The Report and Recommendation (Dkt. 5) of the Magistrate Judge is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.
2. Plaintiff's Motion to Proceed *in Forma Pauperis* (Dkt. 2) is denied.
3. This action is dismissed without prejudice.
4. All pending motions are denied as moot.
5. The Clerk is directed to close this case.

DONE and **ORDERED** in Tampa, Florida, this 23rd day of December, 2019.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies Furnished To:
Counsel/Parties of Record